

MT LEGISLATIVE HISTORY

Chapter 583 1983

Bill (H) 106 S _____

Original bill & hist. ____C

H. Committee on Business & Industry

S. Committee on Business & Industry

Hearing Date(s) Jan 20 ☒ C

Hearing Date(s) Feb 02 ☒ C

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Date Out Jan 20 ☒ C

Feb 02 ☒ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

BUSINESS & INDUSTRY COMMITTEE

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 80	An act to provide for the Service of Alcoholic Bev. on common carriers in Montana	1-5-83	Nordtvedt	1-17-83 9:00	do not pass amended	1-17
HB 82	An act to reestablish the Board of Milk Control	1-5-83	Manuel-Ellerd	1-12-83 9:00 a.m.	do pass	1-12
HB 106	An act to impose penalty on foreign corps. that transact business in Mont. without a certif. of authority	1-6-83	Winslow	1-20-83 9:00	Do pass	1-20
				(CONTINUED-... ..)		

HOUSE BILL 106

REP. CAL WINSLOW, District 65, sponsor, said the purpose of this bill is to put a penalty on foreign corporations that transact business in this state without a certificate of authority. The penalty would be \$5 per day.

PROPOSERS:

ALAN ROBERTSON, Attorney, Secretary of State's Office, said the present statute provides for such a small penalty, it's not worth going after - not cost effective. A study has shown that 17% of those known corporations doing business in Montana applied for the certificate after they were actually doing business. California has a \$20 per day penalty. He said domestic corporations could never get away without getting their certificates.

FLORENCE ARMAGEST, Secretary of State's Office, stated that at present the penalty for corporations operating without a certificate is 10% of the license fee which is \$50 so the penalty is \$5. There is also \$20 we can impose for two years of annual reports. Also we can charge 1/2 of 1 percent of the license fee that would have been due, which amounts to 25 cents per month plus interest. Therefore, at the present time we could charge a total of \$34 and at the proposed penalty we would realize \$5470 - quite a difference.

OPPOSERS: none

REP. WINSLOW: This bill attempts to get a handle on the corporations that come in here. We are talking about quite a bit more money. At a time when we are trying hard to encourage our own businesses to open here in Montana, I certainly think we need to take a close look at this.

QUESTIONS:

REP. PAVLOVICH: Would you object if we raised this to \$20?

Mr. Robertson: I think that might be excessive. We don't want to run people out of the state.

REP. WALLIN: What do you mean by "foreign?" Mr. Robertson: Out of state.

REP. FABREGA: When you say "doing business", does it mean sending a salesman or actually opening a business here? Mr. Robertson: We have a list of what constitutes "doing business."

REP. PAVLOVICH: Do we have any foreign countries that violate this? Mr. Robertson: Perhaps Canada but it's more from other states.

REP. METCALF: If companies have to have a certificate to operate, shouldn't there be some mechanism for you to review and notify?

Mr. Robertson: There has not been an impetus because the fine is not that great.

January 20, 1983
Page 4
Business & Industry Committee

HOUSE BILL 158

REP. TONI BERGENE, District 36, sponsor, opened by saying she was requested by the Secretary of State's office to handle this bill. There will be a Statement of Intent with this bill.

PROPOSERS:

ALAN ROBERTSON, Attorney, Secretary of State's Office, said this bill attempts to handle three areas. It allows the Secretary of State to set filing charges at a level commensurate with costs. It will allow them to deal with discrepancy filing fees right away. He anticipates the fees will go down with this bill.

OPPOSERS: none

QUESTIONS:

REP. HARPER: It's unclear to me how you are going to set fees that are "reasonably related" to the cost of processing the documents. I think we should be a bit more specific.

REP. FABREGA: With this bill you are trying to avoid other bills in the future to take care of things that might come up? Mr. Robertson: Yes.

EXECUTIVE SESSION: HOUSE BILL 106

REP. FAGG: I move that HOUSE BILL 106 DO PASS.
Question: PASSED BY UNANIMOUS VOTE.

HOUSE BILL 158

REP. KITSELMAN: I move that HOUSE BILL 158 DO PASS.

REP. HARPER: I propose the following amendment: That we put in the words "commensurate with costs" and "miscellaneous charges" where applicable to protect the public.

Also to amend the Statement of Intent the same as the bill.
So moved. Passed unanimously.

Question: HOUSE BILL 158 PASSED AS AMENDED BY UNANIMOUS VOTE.

HOUSE BILL 132

REP. PAVLOVICH: The Subcommittee's Report on HB 132 (Exhibit #2) is in front of you with the exception of the provision on Page 5, line 10, Following "fee" Insert: "33 1/3% of any license fee delinquent on July 1 of the renewal year, 66 2/3% of any license fee delinquent on August 1 of the renewal year, and 100% of any license fee delinquent on September 1 of the renewal year."

REP. FAGG: I move that we adopt the amendments of the subcommittee.
Question: Passed unanimously.

MR. Speaker:

We, your committee on BUSINESS & INDUSTRY

having had under consideration HOUSE Bill No. 106
first reading (white)

A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPOSE A PENALTY ON
FOREIGN CORPORATIONS THAT TRANSACT BUSINESS IN THIS STATE
WITHOUT A CERTIFICATE OF AUTHORITY; AMENDING SECTION
35-1-1004, MCA."

Respectfully report as follows: That HOUSE Bill No. 106

DO PASS

48th

LEGISLATIVE SESSION

COMMITTEE ON BUSINESS AND INDUSTRY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
HB 18	1-26-83	3-2-83	3-2-83					3-2-83	
HB 20	1-14-83	1-17-83	1-17-83				1-17-83		
HB 63	1-18-83	1-24-83 1-28-83	1-28-83				1-28-83		
HB 64	1-18-83	1-24-83	1-24-83				1-24-83		
HB 100	3-1-83	3-22-83	3-22-83					3-22-83	
HB 106	1-26-83	2-7-83	2-7-83				2-7-83		
HB 132	1-28-83	2-2-83	2-2-83				2-2-83		
HB 134	1-28-83	2-2-83	2-2-83						2-2-83
HB 158	1-27-83	3-7-83	3-7-83					3-7-83	
RETURNED HB 158	3-7-83	3-8-83	3-8-83						3-8-83
HB 190	1-25-83	2-4-83 2-11-83	2-11-83				2-11-83		
HB 193	3-25-83	3-25-83	3-25-83				3-25-83		
HB 213	2-8-83	3-23-83 3-25-83	3-25-83				3-25-83		
HB 218	1-31-83	3-9-83	3-9-83				3-9-83		
HB 219	1-28-83	3-9-83	3-9-83					3-9-83	
HB 229	1-29-83	3-7-83	3-7-83				3-7-83		

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 7, 1983

The meeting of the Business and Industry Committee was called to order by Chairman Allen Kolstad on February 7, 1983, at 10:00 a.m., in Room 404, State Capitol.

ROLL CALL: All members were present with the exception of Senator Dover who was excused.

CONSIDERATION OF HOUSE BILL 106: This bill is an act to impose a penalty on foreign corporations that transact business in this state without a certificate of authority. Representative Cal Winslow, sponsor of the bill, stated this bill is a bill to provide a penalty on foreign corporations conducting business without a certificate of authority. It was at the request of the Secretary of State. We are not talking about international corporations just out of State.

PROPOSERS TO HOUSE BILL 106: Bob McCue, Secretary of State's Office, stated they are in favor of this bill. It is really to impose a penalty on foreign corporations doing business and giving them more teeth in the law.

Florence Armagast, Secretary of State's Office, gave figures that the corporation would be charged at the \$5.00 a day rate. Right now as a foreign corporation they would be allowed to collect only the license fee. Basically in just going through corporations that they have found approximately 17% of foreign corporations are doing business before they are qualified to do this. She supports this bill.

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE:

Senator Lee asked the way it is now you can charge an extra \$21? Ms. Armagast stated they can charge \$5.00 plus \$5.00 penalty per day.

Senator Goodover asked what does it take to get a Certificate of Authority? Ms. Armagast stated the process is the application must be submitted to our office. Basically it asks that the corporation list registered agents. Also attached must be a copy of their Articles and a Certificate of Good Standing from their present state.

Senator Christiaens asked you mentioned the 17% figure. Can you translate that to numbers rather than percentage? Ms. Armagast stated they do qualify 100 new corporations a month. 17% a month could be receiving a higher penalty.

Senator Gage asked from these 17% how many are you having to police in order to find. Ms. Armagast stated the only way is for them to file.

Senator Kolstad asked do I understand you right, there are 100 new corporations coming into the State per month. Ms. Armagast stated yes.

Senator Gage asked do you have any idea how many corporations are dropping out per month? Ms. Armagast stated withdrawals are approximately 15-20 per month.

Senator Goodover asked does this have any application to the big semi-trucks that pull into Helena loaded with tools? Obviously, it is a corporation. Ms. Armagast stated yes and no. Basically it would need a city license before they could sell. It depends on who actually owns the merchandise. If there is an individual no they could not do anything about it. It would need to be a corporation.

Senator Gage asked does this apply to a big corporation as well as a tiny corporation? Ms. Armagast stated yes.

Senator Lee asked is this \$5.00 fee similar to other states? Ms. Armagast stated yes. California has a \$20.00 penalty.

Senator Kolstad asked would you rather have a larger penalty than \$5.00? Ms. Armagast stated yes but she thinks the \$5.00 will suffice.

In closing, Representative Winslow, stated they thought the \$5.00 per day figure would be adequate. It is not to discourage them from coming into the State.

Senator Goodover stated there are statutes in the codes that cover the person who comes into the state. The intention of the bill is to make a penalty that makes it at least worthwhile to have this law on the books but not to be restrictive to those practicing in the state.

The hearing was closed on House Bill 106.

CONSIDERATION OF SENATE BILL 221: This bill is an act to provide for the transfer of ownership, operation and control of improvement district utility service facilities to a regulated utility. Senator Bill Norman stated he was the sponsor of this bill. There are SID's which are now becoming mature. 20 years has passed and the problem arises. Take an example of a waterline. The RSID district is created and the water main is part of the RID and eventually the bonds are paid off and the matter is settled financially but not legally. The county ends up with the water line. Suppose the water company even uses that RID line and it goes on to serve other areas. The county it is contended is stuck with that water line. They have to maintain it and provide service. There is no way they can transfer that title ownership to a water company who wants to buy it. They can lease it or put it up for bids but none of this is satisfactory. The bill would make it possible for the county to dispose of that property. The need is there and he thinks this bill would answer the need. He has said RSID's so he is talking only about county. The city has heard of the bill and wants to include SID's or cities in this bill. He proposed some amendments.

PROPOSERS TO SENATE BILL 221: Michael Sehstead, Missoula County Deputy Attorney, stated he supports this bill. His testimony is

attached to the minutes. (Exhibit No. 1)

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE:

Senator Gage asked apparently there would be nothing that the utility could do to keep the district from giving that line to them? Mr. Sehstead stated I think the bill as written requires that terms and conditions would have to be agreed upon. He doesn't think the county could drop anything on them. It would be a meeting of the minds.

Senator Fuller asked if you were to make a deal with the utilities does this equipment become taxable? Mr. Quinn stated he believes it would. It would become part of the rate base. As far as taking the ownership of property like that we have done that in the past when they have advertised for bids on the property and taken over liabilities.

Senator Goodover asked are these isolated incidences? Mr. Sehstead stated yes they have only had isolated incidences in their county. Mr. Quinn agreed that this is not a widespread thing.

In closing Senator Norman stated he was merely submitting the amendments for the cities consideration and it would include the cities in the bill as well. He thinks the title is vague enough to include everything.

ACTION ON HOUSE BILL 106: Senator Lee made the motion that House Bill 106 Be Concurred In. Senator Boylan seconded the motion.

The Committee voted unanimously, by voice vote, that HOUSE BILL 106 BE CONCURRED IN. Senator Lee will carry this bill on the floor.

ACTION ON HOUSE BILL 347: Senator Goodover stated he would carry this bill on the floor.

ACTION ON HOUSE BILL 190: The Committee decided to hold this bill for amendments until Friday.

ACTION ON SENATE BILL 229 and 221: The Committee decided to hold these bills for amendments until Wednesday.

CONSIDERATION OF SENATE BILL 144: This bill is an act to remove the restriction allowing only natural persons to hold a liquor license transferred between quota areas. Senator Turnage stated he was the sponsor of this bill which is a request from the Department of Revenue. It deals with removing a restriction on a corporation owning a transferred license. The problem is on page 4, lines 24-25 the part that is stricken. These restrictions were put in when they had the floater licenses. He thinks it is an unrealistic limit. If a corporation acquired a floater license this restriction would follow. The department brought this before the Revenue Oversight Committee and that is the argument.

STANDING COMMITTEE REPORT

February 7

1933

PRESIDENT

MR.

BUSINESS AND INDUSTRY

We, your committee on

HOUSE

Bill No. 106

having had under consideration

(WINSLOW) LEE

Respectfully report as follows: That

HOUSE

Bill No. 106

BE CONCURRED IN

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AC

2.7.83

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)